



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TRG  
Docket No: 1318-00  
12 July 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
[REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments  
(2) Case Summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps Reserve filed enclosure (1) with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 5 April 1997.

2. The Board, consisting of Mr. Leeman, Mr. Dunn and Mr. Mazza, reviewed Petitioner's allegations of error and injustice on 6 July 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner was promoted to 1stSGT (E-8) on 1 January 1991 and subsequently earned qualifying years for retirement through the end of his anniversary year on 31 January 1994. He reenlisted in the Marine Corps Reserve for two years on 6 April 1995. He was honorably discharged on 5 April 1997 at the expiration of his enlistment. A Career Retirement Credit Report provided by Headquarters Marine Corps shows that he has been credited with 22 years, 8 months and 8 days of qualifying service for reserve retirement.

d. The Board did not request an advisory opinion in this case. However, the Board is aware that HQMC has routinely

recommended favorable action in similar cases where an individual was qualified for reserve retirement and there is no explanation in the record why they were discharged and not retired.

e. The Board is aware that the Uniform Retirement Date Act, 5 U.S.C. 8301 requires that the effective date of any retirement by the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner was in good standing in the Naval Reserve and would have been transferred to the Retired Reserve if he had requested it. Therefore, the Board believes that he should be transferred to the Retired Reserve in the grade of 1stSGT. Given the requirements of the Uniform Retirement Date Act, the Board further concludes that he should be transferred to the Retired Reserve on 1 April 1997 vice being discharged on 5 April 1997.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Retired Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Retired Reserve on 1 April 1997 in the grade of 1stSGT vice being discharged on 5 April 1997.

b. That this Report of Proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

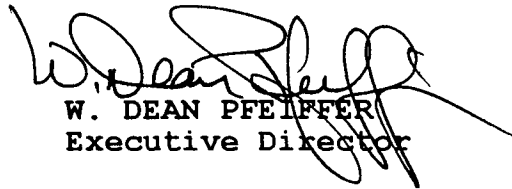
ROBERT D. ZSALMAN  
Recorder



ALAN E. GOLDSMITH  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby

announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER  
Executive Director